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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,243	04/04/2005	Shuhei Kurata	P1293US	2656
1218	7590	03/15/2006	EXAMINER	
CASELLA & HESPOS 274 MADISON AVENUE NEW YORK, NY 10016			CRAIG, PAULA L	
			ART UNIT	PAPER NUMBER
			3761	
DATE MAILED: 03/15/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/530,243

Applicant(s)

KURATA ET AL.

Examiner

Paula L. Craig

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 April 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/4/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign mentioned in the description: 8 (see page 9, fifth full paragraph). The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "16A" has been used to designate both an outer sheet and a lateral edge (page 13). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The disclosure is objected to because of the following informalities: On page 5, third line from the bottom, "martial" should be "material". On page 16, second line from the bottom, "lime" should be "line". Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The meaning of the phrase "extend a given length approximately linearly in an approximately laterally central zone" is unclear.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Application Publication No. 2002/0010455 to Hermansson et al.

7. For Claim 1, Hermansson teaches a disposable wearing article including an absorbent body (Figs. 1-3 and paragraphs 1 and 13). A primary elastic member is attached to a back portion of the absorbent body to extend a given length approximately linearly in an approximately laterally central zone of the back portion (primary elastic member is elastic means 11a, 11b, and 11c; back portion is back sheet 2; Figs. 2-3 and paragraphs 13 and 17-24). The primary elastic member has a linear convergent portion (second elastic means 11b, Figs. 2-3 and paragraph 21). The primary elastic member

extends forwardly from the front end of the linear convergent portion in a forwardly divergent pattern and/or rearwardly from the rear end of the linear convergent portion in a rearwardly divergent pattern (first and third elastic means 11a and 11c, Figs. 2-3 and paragraphs 17-24).

8. For Claim 8, Hermansson teaches a disposable wearing article including a cover sheet (cover sheet is back sheet 2; Figs. 1-3 and paragraphs 1 and 13). An absorbent body is attached on a skin-side surface of the cover sheet (absorbent body 4, Figs. 1-3 and paragraphs 13-15). A primary elastic member is attached to the cover sheet to extend a given length longitudinally and approximately linearly in an approximately laterally central zone of the cover sheet (primary elastic member is elastic means 11a, 11b, and 11c; Figs. 2-3 and paragraphs 13 and 17-24). The primary elastic member has a linear convergent portion (second elastic means 11b, Figs. 2-3 and paragraph 21). The primary elastic member extends forwardly from the front end of the linear convergent portion in a forwardly divergent pattern and/or rearwardly from the rear end of the linear convergent portion in a rearwardly divergent pattern (first and third elastic means 11a and 11c, Figs. 2-3 and paragraphs 17-24).

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 6,413,249 to Turi et al. shows elastic members attached to the back of a diaper with a linear convergent portion and forwardly and rearwardly divergent portions. U.S. Patent No. 5,593,400 to O'Leary shows elastic

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members attached to the skin-side surface of a cover sheet. The remaining prior art references listed on the accompanying Form PTO-892 show the general state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paula L. Craig whose telephone number is (571) 272-5964. The examiner can normally be reached on 8:30AM-5:00PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paula L Craig  
Examiner  
Art Unit 3761

PLC

**TATYANA ZALUKAEVA**  
**SUPERVISORY PRIMARY EXAMINER**

